



Senate

General Assembly

File No. 372

January Session, 2019

Substitute Senate Bill No. 907

Senate, April 3, 2019

The Committee on Insurance and Real Estate reported through SEN. LESSER of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE RESIDENTIAL DISCLOSURE REPORT AND CRUMBLING CONCRETE FOUNDATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (b) to (d), inclusive, of section 20-327b of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2019*):

4 (b) The following shall be exempt from the provisions of this
5 section: (1) Any transfer from one or more co-owners solely to one or
6 more of the co-owners; (2) transfers made to the spouse, mother,
7 father, brother, sister, child, grandparent or grandchild of the
8 transferor where no consideration is paid; (3) [transfers pursuant to an
9 order of the court; (4)] transfers of newly-constructed residential real
10 property for which an implied warranty is provided under chapter
11 827; [(5)] (4) transfers made by executors, administrators, trustees or
12 conservators; [(6)] (5) transfers by the federal government, any political
13 subdivision thereof or any corporation, institution or quasi-
14 governmental agency chartered by the federal government; [(7)

15 transfers by deed in lieu of foreclosure; (8)] (6) transfers by the state of
16 Connecticut; [or any political subdivision thereof; (9)] and (7) transfers
17 of property which was the subject of a contract or option entered into
18 prior to January 1, 1996. [; and (10) any transfer of property acquired
19 by a judgment of strict foreclosure or by foreclosure by sale or by a
20 deed in lieu of foreclosure.]

21 (c) The provisions of this section shall apply only to transfers by
22 sale, exchange or lease with option to buy, of residential real property
23 consisting of not less than one nor more than four dwelling units
24 which shall include cooperatives and condominiums, and shall apply
25 to all transfers, with or without the assistance of a licensed real estate
26 broker or salesperson, as defined in section 20-311.

27 (d) The Commissioner of Consumer Protection shall prescribe the
28 written residential disclosure report required by this section and
29 sections 20-327c to 20-327e, inclusive, as amended by this act. The
30 written residential disclosure report shall be based upon a template
31 that the commissioner shall prescribe. Such template shall: Fit on pages
32 being not more than eight and one-half inches in height and eleven
33 inches in width, with type size no smaller than nine-point type, other
34 than checkboxes or section headers, which may be in a smaller size;
35 include the address of the subject property on each page; include page
36 numbers on each page; include section headings in bold type and
37 include space for the buyer and the seller's initials on each page, except
38 the signature page. The report shall contain the following, in the order
39 indicated:

40 (1) A section entitled "Instructions to Sellers"

41 You MUST answer ALL questions to the best of your knowledge.

42 Identify/Disclose any problems regarding the subject property.

43 YOUR REAL ESTATE LICENSEE CANNOT COMPLETE THIS
44 FORM ON YOUR BEHALF.

45 UNK means Unknown, N/A means Not Applicable.

46 If you need additional space to complete any answer or explanation,
47 attach additional page(s) to this form. Include subject property
48 address, seller's name and the date.

49 (2) Pursuant to the Uniform Property Condition Disclosure Act, the
50 seller is obligated to answer the following questions and to disclose
51 herein any knowledge of any problem regarding the following:

52 (A) A subsection entitled "Subject Property"

53 (i) Name of seller(s)

54 (ii) Street address, municipality, zip code

55 (B) A subsection entitled "General Information"

56 (i) Indicate the YEAR the structure was built:

57 (ii) Indicate HOW LONG you have occupied the property: If not
58 applicable, indicate with N/A.

59 (iii) Does anyone else claim to own any part of your property,
60 including, but not limited to, any encroachment(s)? If YES, explain:

61 (iv) Does anyone other than you have or claim to have any right to
62 use any part of your property, including, but not limited to, any
63 easement or right-of-way? If YES, explain:

64 (v) Is the property in a flood hazard area or an inland wetlands
65 area? If YES, explain:

66 (vi) Do you have any reason to believe that the municipality in
67 which the subject property is located may impose any assessment for
68 purposes such as sewer installation, sewer improvements, water main
69 installation, water main improvements, sidewalks or other
70 improvements? If YES, explain:

71 (vii) Is the property located in a municipally designated village
72 district, municipally designated historic district or listed on the

73 National Register of Historic Places? If YES, explain:

74 (viii) Special Statement: Information concerning village districts and
75 historic districts may be obtained from the municipality's village or
76 historic district commission, if applicable.

77 (ix) Is the property located in a special tax district? If YES, please
78 explain:

79 (x) Is the property subject to any type of land use restrictions, other
80 than those contained within the property's chain of title or that are
81 necessary to comply with state laws or municipal zoning? If YES,
82 explain:

83 (xi) Is the property located in a common interest community? If
84 YES, is it subject to any community or association dues or fees? Please
85 explain:

86 (xii) Do you have any knowledge of prior or pending litigation,
87 government agency or administrative actions, orders or liens on the
88 property related to the release of any hazardous substance? If YES,
89 please explain:

90 (C) A subsection entitled "Leased Equipment"

91 Does the property include any Leased or Rented Equipment that
92 would necessitate or obligate either of the following: The assignment
93 or transfer of the lease or rental agreement(s) to the buyer or the
94 replacement or substitution of the equipment by the buyer? If YES,
95 indicate by checking ALL items that apply: PROPANE FUEL TANK;
96 WATER HEATER; SECURITY ALARM SYSTEM; FIRE ALARM
97 SYSTEM; SATELLITE DISH ANTENNA; WATER TREATMENT
98 SYSTEM; SOLAR DEVICES; MAJOR APPLIANCES; OTHER

99 (D) A subsection entitled "Mechanical/Utility Systems"

100 (i) Heating system problems? If YES, explain. List Fuel Types.

101 (ii) Hot water heater Type: Age: Hot water problems? If YES,

102 explain:

103 (iii) Is there an underground storage tank? If YES, give AGE of tank
104 and LOCATION.

105 (iv) Are you aware of any problems with the underground storage
106 tank? If YES, explain:

107 (v) During the time you have owned the property, has there ever
108 been an underground storage tank located on the property? If YES, has
109 it been removed? If YES, what was the date of removal and what was
110 the name and address of the person or business who removed such
111 underground storage tank? Provide any and all written documentation
112 of such removal within your control or possession by attaching a copy
113 of such documentation to this form.

114 (vi) Air conditioning problems? If YES, explain: Air conditioning
115 Type: Central; Window; Other

116 (vii) Plumbing system problems? If YES, explain:

117 (viii) Electrical System problems? If YES, explain:

118 (ix) Electronic security system problems? If YES, explain:

119 (x) Are there carbon monoxide or smoke detectors located in a
120 dwelling on the property? If YES, state the NUMBER of such detectors
121 and whether there have been problems with such detectors;

122 (xi) Fire sprinkler system problems? If YES, explain:

123 (E) A subsection entitled "Water System"

124 (i) Domestic Water System Type: Public; Private Well; Other

125 (ii) If Public Water:

126 (I) Is there a separate expense/fee for water usage? If YES, is the
127 expense/fee for water usage flat or metered? Give the AMOUNT and
128 explain:

129 (II) Are there any UNPAID water charges? If YES, state the amount
130 unpaid:

131 (iii) If Private Well:

132 Has the well water been tested for contaminants/volatile organic
133 compounds? If YES, attach a copy of the report.

134 (iv) If Public Water or Private Well: Are you aware of any problems
135 with the well, or with the water quality, quantity, recovery, or
136 pressure? If YES, explain:

137 (F) A subsection entitled "Sewage Disposal System"

138 (i) Sewage Disposal System Type: Public; Septic; Cesspool; Other

139 (ii) If Public Sewer:

140 (I) Is there a separate charge made for sewer use? If YES, is it Flat or
141 Metered?

142 (II) If it is a Flat amount, state amount and due dates:

143 (III) Are there any UNPAID sewer charges? If any unpaid sewer
144 charges, state the amount:

145 (iii) If Private:

146 (I) Name of service company

147 (II) Date last pumped: AND frequency:

148 (III) For any sewage system, are there problems? If YES, explain:

149 (G) A subsection entitled "Asbestos/Lead"

150 (i) Are asbestos containing insulation or building materials present?
151 If YES, location:

152 (ii) Is lead paint present? If YES, location:

- 153 (iii) Is lead plumbing present? If YES, location:
- 154 (H) A subsection entitled "Building/Structure/Improvements"
- 155 (i) Is the foundation made of concrete? If NO, explain:
- 156 (ii) Foundation/Slab problems or settling, including, but not limited
157 to, problems or settling caused by pyrrhotite? If YES, explain:
- 158 (iii) Basement Water Seepage/Dampness? If YES, explain Amount,
159 Frequency and Location:
- 160 (iv) Sump pump problems? If YES, explain:
- 161 (v) Do you have any knowledge of any testing or inspection done by
162 a licensed professional related to a foundation on the property,
163 including, but not limited to, any testing or inspection done by a
164 licensed professional to determine whether a foundation on the
165 property contains pyrrhotite? If YES, attach a copy of the report.
- 166 (vi) Do you have any knowledge of any repairs related to a
167 foundation on the property, including, but not limited to, any repairs
168 to remedy any deterioration of a foundation on the property due to the
169 presence of pyrrhotite? If YES, explain:
- 170 (vii) Do you have any knowledge related to the presence of
171 pyrrhotite in a foundation on the property? If YES, explain:
- 172 [(vii)] (viii) Roof type; Age?
- 173 [(viii)] (ix) Roof leaks? If YES, explain:
- 174 [(ix)] (x) Exterior siding problems? If YES, explain:
- 175 [(x)] (xi) Chimney, Fireplace, Wood or Coal Stove problems? If YES,
176 explain:
- 177 [(xi)] (xii) Patio/deck problems? If YES, explain:
- 178 [(xii)] (xiii) If constructed of Wood, is the Wood Treated or

- 179 Untreated?
- 180 [(xiii)] (xiv) Driveway problems? If YES, explain:
- 181 [(xiv)] (xv) Water drainage problems? If YES, explain:
- 182 [(xv)] (xvi) Interior Floor, Wall and/or Ceiling problems? If YES,
183 explain:
- 184 [(xvi)] (xvii) Fire and/or Smoke damage? If YES, explain:
- 185 [(xvii)] (xviii) Termite, Insect, Rodent or Pest Infestation problems?
186 If YES, explain:
- 187 [(xviii)] (xix) Rot or Water damage problems? If YES, explain:
- 188 [(xix)] (xx) Is house insulated? If YES, Type: Location:
- 189 [(xx)] (xxi) Has a test for Radon been performed? If YES, attach a
190 copy of the report.
- 191 [(xxi)] (xxii) Is there a Radon Control System in place? If YES,
192 explain:
- 193 [(xxii)] (xxiii) Has a Radon control system been in place in the
194 previous 12 months? If YES, explain:
- 195 (I) The Seller should attach additional pages to further explain any
196 item(s) above. Indicate here the number of additional pages attached:
- 197 (J) Questions contained in subparagraphs (A) to (I), inclusive, of this
198 subdivision shall contain checkboxes indicating "yes", "no", "not
199 applicable" or "unknown".
- 200 (3) The written residential disclosure report shall contain the
201 following immediately below the questions contained in
202 subparagraphs (A) to (I), inclusive, of subdivision (2) of this
203 subsection:
- 204 A certification by the seller in the following form:

205 SELLER'S CERTIFICATION

206 "To the extent of the seller's knowledge as a property owner, the
207 seller acknowledges that the information contained above is true and
208 accurate for those areas of the property listed. In the event a real estate
209 broker or salesperson is utilized, the seller authorizes the brokers or
210 salespersons to provide the above information to prospective buyers,
211 selling agents or buyers' agents.

T1 (Date) (Seller)

T2 (Date) (Seller)"

212 (4) The written residential disclosure report shall contain the
213 following in a separate section immediately below the seller's
214 certification:

215 IMPORTANT INFORMATION

216 (A) RESPONSIBILITIES OF REAL ESTATE BROKERS

217 This report in no way relieves a real estate broker of the broker's
218 obligation under the provisions of section 20-328-5a of the Regulations
219 of Connecticut State Agencies to disclose any material facts. Failure to
220 do so could result in punitive action taken against the broker, such as
221 fines, suspension or revocation of license.

222 (B) STATEMENTS NOT TO CONSTITUTE A WARRANTY

223 Any representations made by the seller on the written residential
224 disclosure report shall not constitute a warranty to the buyer.

225 (C) NATURE OF DISCLOSURE REPORT

226 This Residential Property Condition Disclosure Report is not a
227 substitute for inspections, tests and other methods of determining the
228 physical condition of property.

229 (D) INFORMATION ON THE RESIDENCE OF CONVICTED
230 FELONS

231 Information concerning the residence address of a person convicted
232 of a crime may be available from law enforcement agencies or the
233 Department of Public Safety.

234 (E) BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

235 Prospective buyers should consult with the municipal building
236 official in the municipality in which the property is located to confirm
237 that building permits and certificates of occupancy have been issued
238 for work on the property.

239 (F) HOME INSPECTION

240 Buyers should have the property inspected by a licensed home
241 inspector.

242 (G) CONCRETE FOUNDATION

243 Prospective buyers may have a concrete foundation inspected by a
244 licensed professional engineer who is a structural engineer for
245 deterioration of the foundation due to the presence of pyrrhotite.

246 (5) The written residential disclosure report shall contain the
247 following immediately below the statements contained in
248 subparagraphs (A) to (G), inclusive, of subdivision (4) of this
249 subsection:

250 A certification by the buyer in the following form:

251 BUYER'S CERTIFICATION

252 "The buyer is urged to carefully inspect the property and, if desired,
253 to have the property inspected by an expert. The buyer understands
254 that there are areas of the property for which the seller has no
255 knowledge and that this disclosure statement does not encompass
256 those areas. The buyer also acknowledges that the buyer has read and
257 received a signed copy of this statement from the seller or seller's
258 agent.

T3 (Date) (Seller)
 T4 (Date) (Seller)"

259 Sec. 2. Section 20-327c of the general statutes is repealed and the
 260 following is substituted in lieu thereof (*Effective October 1, 2019*):

261 On or after January 1, 1996, every agreement to purchase residential
 262 real estate, for which a written residential condition report is required
 263 pursuant to section 20-327b, as amended by this act, shall include a
 264 requirement that the seller credit the purchaser with the sum of five
 265 hundred dollars at closing should the seller fail to furnish the written
 266 residential condition report as required by sections 20-327b to 20-327e,
 267 inclusive, as amended by this act, provided this section shall not be
 268 construed to excuse the seller from disclosing to the purchaser any
 269 facts that are within the seller's actual knowledge concerning (1)
 270 foundation or slab problems or settling caused by pyrrhotite, (2) any
 271 testing or inspection done by a licensed professional to determine
 272 whether a foundation on the property contains pyrrhotite, (3) any
 273 repairs to remedy any deterioration of a foundation on the property
 274 due to the presence of pyrrhotite, or (4) the presence of pyrrhotite in a
 275 foundation on the property.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2019</i>	20-327b(b) to (d)
Sec. 2	<i>October 1, 2019</i>	20-327c

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill modifies the residential disclosure report and results in no fiscal impact to the state because the report is required only for residential property.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 907*****AN ACT CONCERNING THE RESIDENTIAL DISCLOSURE REPORT
AND CRUMBLING CONCRETE FOUNDATIONS.*****SUMMARY**

This bill expands the scope of the written “residential condition report” that, by law, a residential property owner must use to make specific disclosures about the property’s condition to a prospective purchaser, before executing a purchase contract or a lease contract with a purchase option. The bill removes four specific exemptions and in so doing now requires sellers to provide this report when the residential property will transfer:

1. pursuant to a court-order;
2. by a political subdivision of the state;
3. by a deed in lieu of foreclosure; or
4. when the property being transferred was acquired by a judgement of strict foreclosure, foreclosure by sale (i.e., the court appoints a committee to sell the property), or deed in lieu of foreclosure (i.e., when the property is conveyed to the mortgagee).

The bill also expands the content of the residential condition report by requiring the seller to disclose and explain, on the report, any knowledge he or she has related to pyrrhotite in the property’s foundation. Under current law, a seller must disclose any knowledge of any foundation problems, settling, testing, inspection, or repairs. The bill requires the seller to specify in the report when any such activity was pyrrhotite-related. Specifically, the seller must disclose whether he or she has any knowledge of:

1. foundation or slab problems or settling caused by pyrrhotite,
2. any testing or inspection done by a licensed professional to determine whether a foundation contains pyrrhotite,
3. any foundation repairs due to pyrrhotite, or
4. the presence of pyrrhotite in the property's foundation.

By law, a seller must credit the purchaser \$500 at closing if the seller fails to provide the purchaser the written residential condition report. The bill specifies that this does not excuse a seller from disclosing to the purchaser actual knowledge of any of the items listed above.

EFFECTIVE DATE: October 1, 2019

BACKGROUND

Related Bills

sSB 1010, reported favorably by the Planning and Development Committee, also makes changes to the residential condition report by requiring sellers to disclose certain knowledge of dams.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/19/2019)